



State of Washington
PUBLIC DISCLOSURE COMMISSION

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9:00 a.m.
March 25, 2003

MINUTES – REGULAR MEETING

Evergreen Plaza Bldg. Room 206
711 Capitol Way South
Olympia, Washington

COMMISSION MEMBERS PRESENT

Mike Connelly, Chair
Susan Brady, Vice Chair
Lois Clement, Secretary
Francis Martin, Member
Earl Tilly, Member

STAFF PRESENT

Vicki Rippie, Executive Director
Susan Harris, Assistant Director
Michael Smith, Chief Technology Officer
Nancy Krier, Asst. Attorney General
Linda Dalton, Sr. Asst. Attorney General
Ruthann Bryant, Secretary

The regular meeting of the Public Disclosure Commission was called to order by Commission Chair Mike Connelly at 9:00 a.m. in the Evergreen Plaza Building, Room 206, Olympia, Washington.

Commissioner Comments

Commissioner Connelly thanked Michael Smith and Kyle Gubbe for preparing a separate room to broadcast the meeting.

Citizen Comments/Concerns

No citizen comments or concerns were expressed.

Minutes

Motion 03-088

Moved by Commissioner Clement, seconded by Commissioner Brady:

**The Commission adopts the minutes
of the regular meeting of January 28,
2003, as written.**

The motion passed unanimously.

Motion 03-089

Moved by Commissioner Clement, seconded by
Commissioner Martin:

**The Commission adopts the minutes
of the special meeting of February 3,
2003, as written.**

The motion passed unanimously.

Enforcement Matters

Susan Harris reported on investigations into allegations that contributions reported by candidates for Des Moines City Council elections in 1999 and 2001 may have been given in a manner as to conceal the true source of the funds. She noted that in April 2002, staff first received a complaint alleging that in 2001, political advertising had been distributed and advocacy calls had been made for candidates in the Des Moines City Council elections, and the contributions had not been reported to the PDC. In February 2003, two additional complaints alleging that the true sources of the contributions reported by Des Moines City Council candidates in the 1999 election were also in doubt.

*Environmental Materials
Transport, LLC and TME Capital
Group, LLC Case #03-158*

Ms. Harris read the Stipulation of Facts, Violations and Penalty into the record in the case against Environmental Materials Transport, LLC (EMT) and TME Capital Group, LLC. The Respondents admitted to violating RCW 42.17.120 by concealing the true source of contributions made to candidates in the 1999 Des Moines City Council election and agreed to pay a penalty of \$40,000 and \$3,000 to cover a portion of staff costs incurred in the investigation.

Attorney James Frush, representing EMT and TME was present and apologized to the Commission and the public on behalf of his clients

and noted that the individuals involved did not realize what they had done was illegal.

Commissioner Tilly expressed disappointment in the people involved and added that the individuals involved should apologize to the community in a public statement.

Commissioner Brady requested that the stipulation be amended to state that the penalty must be paid within 30 days from the date of the Commission's order.

Motion 03-090

Moved by Commissioner Brady, seconded by Commissioner Clement:

In PDC Case #03-158, Environmental Materials Transport, LLC and TME Capital Group, the Commission accepts the Stipulation of Facts, Violations and Penalty of \$40,000, with an additional \$3,000 to the PDC to cover a portion of its costs incurred in the investigation to be paid within 30 days of the date of the Commission's order in the case of TME Capital Group, LLC and Environmental Materials Transport, LLC, as amended.

The motion passed unanimously.

*Denis Bryant, Ginger Marshall,
Dixie Collett and Michael
Mehlhoff, and Enviroc, Inc.,
Case #03-158*

Ms. Harris also reported that staff recommends dismissal of alleged violations of RCW 42.17.120 for concealing the source and amount of contributions made to candidates in the 1999 Des Moines City Council election against the following:

- Denis Bryant – Mr. Bryant was asked by someone he considered his mentor and a major investor into some of his business ventures to do her a favor. He did not believe she would ask him to do something illegal.

- Ginger Marshall – Ms. Marshall was asked by two people who were major investors in her business venture to make the contribution. She felt she was indebted to them and agreed to make the contribution.
- Dixie Collett – Ms. Collett was identified by the candidate as being a contributor, however it was actually Ms. Collett's husband who wrote and signed the contribution check. Ms. Collett did not make contributions to candidates in 1999.
- Michael Mehlhoff and Enviroc, Inc. – There was no evidence found that another person reimbursed contributions made.

Motion 03-091

Moved by Commissioner Clement, seconded by Commissioner Tilly:

The Commission dismisses alleged violations of RCW 42.17.120 by Denis Bryant, Ginger Marshall, Dixie Collett, Michael Mehlhoff and Enviroc, Inc. in PDC Case #03-158.

Voting For: Commissioners Clement, Martin and Tilly.

Voting Against: Commissioners Brady and Connelly.

The motion passed.

Henry M. Foote, Jr., Case #03-155

Ms. Harris reported that staff also recommends dismissal of the allegations against Henry M. (Mike) Foote, Jr. Mr. Foot reported the contribution from Mr. Bryant and no evidence was found that Mr. Foote was aware that Mr. Bryant was not the true source of the contribution.

Motion 03-092

Moved by Commissioner Brady, seconded by Commissioner Tilly:

The Commission dismisses alleged violations of RCW 42.17.120 by Henry M. Foote, Jr. in PDC Case #03-155.

The motion passed unanimously.

Marty Michalson, Case #03-156

Ms. Harris reported that staff also recommends dismissal of the allegations against Marty Michalson. Mr. Michalson reported the contributions and no evidence was found that Mr. Michalson knew that Mr. Bryant, Ms. Marshall or Mr. Collett were not the true contributors.

Motion 03-093

Moved by Commissioner Martin, seconded by Commissioner Clement:

The Commission dismisses alleged violations of RCW 42.17.120 by Marty Michalson in PDC Case #03-156.

The motion passed unanimously.

Don Wasson, Case #02-296

Senior Assistant Attorney General Linda Dalton read the Stipulation of Facts, Violations and Penalty into the record in the case of Don Wasson for alleged violations of RCW 42.17.040 for failing to register a political committee; 42.17.065, 42.17.080 and 42.17.090 for failing to report contributions received and expenditures made; 42.17.105 for receiving excess contributions; and 42.17.120 for concealing the source and amount of contributions and an independent expenditure to candidates in the 2001 Des Moines City Council election. Mr. Wasson agreed to a penalty of \$10,000 with \$7,500 suspended.

Attorney John Wolfe, representing Mr. Wasson, was present via telephone and stated that Mr. Wasson has stepped down from his position as Mayor and resigned from the city council. He encouraged the Commission to accept the stipulation.

Commissioner Connelly requested that the stipulation be amended to state that the penalty cannot be paid using campaign funds.

Mr. Wolfe accepted the amendment to the stipulation on behalf of Mr. Wasson.

Motion 03-094

Moved by Commissioner Brady, seconded by Commissioner Tilly:

The Commission accepts the Stipulation of Facts, Violations and Penalty of \$10,000 with \$7,500 suspended based upon the conditions listed in the Stipulation in PDC Case #02-296, Don Wasson, as amended.

Voting For: Commissioners Connelly, Brady, Tilly and Martin.

Voting Against: Commissioner Clement.

The motion passed.

Hank Hopkins, Case #03-153

Susan Harris summarized the case against Hank Hopkins for alleged violations of RCW 42.17.105 for contributing in excess of \$5,000 within the last 21 days before the election when he spent money that benefited candidate Richard Benjamin. In addition, Mr. Hopkins committed apparent multiple violations of 42.17.120 for concealing the source and amount of contributions made to candidates in the 2001 Des Moines City Council election when he paid for the services of Tom Hujar, who prepared campaign literature and conducted advocacy calls benefiting the candidates.

Motion 03-095

Moved by Commissioner Martin, seconded by Commissioner Tilly:

The Commission finds apparent multiple violations of RCW 42.17.120 and a single violation of RCW 42.17.105 by Hank Hopkins, PDC Case #03-153, and refers the matter to the Office of the Attorney General for appropriate action given the insufficiency of its penalty authority.

The motion passed unanimously.

Vicki Rippie was authorized to sign the order on behalf of the Commission.

*Gary Petersen, Richard Benjamin
Henry M. Foote, Jr., Margaret
Steenrod, Case #02-296*

Susan Harris also reported that staff recommends dismissal of the allegations of violations of RCW 42.17.120 against the following:

- Gary Petersen – Reported an in-kind contribution of \$750 from Mr. Wasson and was unaware that Mr. Hopkins was funding Mr. Wasson's effort to help him get elected.
- Richard Benjamin – Reported an in-kind contribution of \$750 from Mr. Wasson and was unaware that Mr. Hopkins was funding Mr. Wasson's effort to help him get elected.
- Mike Foote – Did not benefit from any of the actions undertaken by Mr. Wasson and Mr. Hopkins.
- Margaret Steenrod – She declined the offer of assistance from Mr. Wasson and any activities undertaken by the group were not contributions to Ms. Steenrod.

The Commission tables the section of PDC Case #02-296 as it relates to Gary Peterson and Richard Benjamin until a future meeting pending the outcome of PDC Case #03-153, Hank Hopkins.

Motion 03-096

Moved by Commissioner Tilly, seconded by Commissioner Clement:

The Commission dismissed alleged violations of RCW 42.17.080, 42.17.090 and 42.17.120 by Henry M. Foote, Jr., and Margaret Steenrod in PDC Case #02-296.

The motion passed unanimously.

Concerned Citizens for Better

*Government and Joseph Coomer
Case #03-080 and #02-296*

Phil Stutzman reported on two separate complaints against Concerned Citizens for Better Government and Joseph Coomer, Case #03-080 and a portion of Case #02-296, for alleged violations of RCW 42.17.065, 42.17.080 and 42.17.090 for failing to report contributions received and expenditures made. He added that staff recommends referring the matter to the Office of the Attorney General.

Motion 03-097

Moved by Commissioner Brady, seconded by Commissioner Clement:

The Commission finds apparent multiple violations of RCW 42.17.065, 42.17.080 and 42.17.090 by Concerned Citizens for Better Government and Joseph Coomer, PDC Case #03-080 and the portion of #02-296 that relates to Joseph Coomer, and refers the matter to the Office of the Attorney General for appropriate action given the insufficiency of its penalty authority.

The motion passed unanimously.

Vicki Rippie was authorized to sign the order on behalf of the Commission.

The Commission recognized the hard work by Susan Harris and Sally Parker in conducting the investigation and preparing materials relating to the City of Des Moines enforcement matters.

Personal Financial Affairs Reporting
New Modification Request
*Betty Neighbors, Candidate for
Snohomish County Executive*

Mr. Stutzman reported that Betty Neighbors requests an exemption for reporting the non-government business customers of TERRA Services, Inc. DBA Terra Resource Group, of which she is an officer and owner.

Motion 03-098

Moved by Commissioner Brady, seconded by Commissioner Tilly:

The Commission grants the reporting modification to Betty Neighbors as requested.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

Renewals (no change)

The “renewals with no changes” reporting modification requests were considered en masse.

Motion 03-099

Moved by Commissioner Clement, seconded by Commissioner Martin:

The Commission grants the reporting modifications requested by Kenneth, Alhadeff, Elizabeth A. Cowles, William H. Gates, Sr., Orlan Gessford, Dan Grausz, International Brotherhood of Electrical Workers Local 77 PAC, Sarah M. R. “Sally” Jewell, Karen Lane, Dean S. Lum, Jeffrey W. Nitta, Erin M. Sheridan, Active in Democracy, Grace T. Yuan and Cynthia Zehnder.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

Legislation

Vicki Rippie updated the Commission on pending legislation that may impact chapter 42.17 RCW. She noted that the PDC’s agency request bill relating to reporting by out-of-state political committees passed the House on March 10, 2003.

Advisory Matter

Caucus Committee Audits

Susan Harris summarized audits conducted on the four caucus campaign committees along with their associated committees:

- The House Republican Organizational Committee and the Speaker's Roundtable
- The House Democratic Campaign Committee and the Harry Truman Fund
- The Senate Republican Campaign Committee and the Leadership Council
- The Senate Democratic Campaign Committee and the Roosevelt Fund.

Ms. Harris reported that the scope of the audits, covering 2000 with a follow-up in 2002, was to determine how each committee operated and to explore the relationship between the caucus campaign committees and their associated committees. During the process it was found that while each committee operates uniquely, the ultimate result was that none of the committees had adequate documentation to establish that contribution limits were not exceeded.

Staff will work with all of the committees to gather input and begin the rule-making process. Staff will provide a follow up report to the Commission at a future meeting.

Executive Session

The Commission went into executive session at 11:13 a.m. to discuss pending litigation with legal counsel.

Public Session

The Commission returned to public session at 12:00 p.m. and broke for lunch until 1:15 p.m.

Rule-Making

Public Hearing

*WAC 390-17-100 Contribution
withholding authorizations*

Doug Ellis briefly summarized proposed rule amendments to WAC 390-17-100 to allow the use of exact language in RCW 42.17.680(2) or

alternative language describing the provisions of statute.

If approved, staff will file the CR 103 Rule-Making Order with the Code Reviser's Office and the rules would become effective 31 days after filing.

There were no public comments.

Motion 03-100

Moved by Commissioner Clement, seconded by Commissioner Martin:

The Commission amends WAC 390-17-100, Contribution withholding authorizations, as presented.

The motion passed unanimously.

*WAC 390-17-110 Notifying
employees regarding voluntary
payroll deductions*

Doug Ellis briefly summarized a proposed new rule which addresses two types of notices to employees that are required under RCW 42.17.680:

- A nondiscrimination notice (RCW 42.17.680(2)) and,
- A revocation notice (RCW 42.17.680(3)).

The proposal also provides for a contact name and address where revocation requests can be sent, outlines examples of what would constitute written notification and provides guidance on the use of newsletters or similar publications and the retention of records.

Attorney Jim Oswald, representing the Washington State Labor Council, commented that the WSLC did not oppose the proposed new rule. Mr. Ellis noted that a number of emails were received both supporting and opposing the proposed new rule and were provided to the Commission for their consideration.

If approved, staff will file the CR 103 Rule-Making Order with the Code Reviser's Office and the rules would become effective 31 days after filing.

Motion 03-101

Moved by Commissioner Brady, seconded by Commissioner Tilly:

The Commission adopts WAC 390-17-110, Notifying employees regarding voluntary payroll deductions, as presented.

The motion passed unanimously.

Discussion of potential rule making

WAC 390-16-245 Pledges

Mr. Ellis briefly discussed draft language to WAC 390-16-245 to conform to statutory changes in RCW 42.17.640(1) and treat the redemption of pledges in the same manner as standard monetary contributions received by a candidate or political committee.

*WAC 390-18-010 Political advertising
--Identification of sponsor*

Mr. Ellis also summarized draft language that would remove the requirement that broadcast political advertising conform to the requirements of the FCC and clarify the sponsor identification requirements for political advertisement undertaken as an independent expenditure.

If approved, staff will file the CR 102 Proposed Rule-Making notice with the Code Reviser's Office and a public hearing will be scheduled.

Motion 03-102

Moved by Commissioner Clement, seconded by Commissioner Tilly:

The Commission authorizes staff to move forward with the rule-making process.

The motion passed unanimously.

Staff Reports

Executive Director

Vicki Rippie briefly updated the Commission on the progress that has been made toward realizing the goals and objectives in the strategic plan, highlighting accomplishments in compliance and IT.

Assistant Director

Susan Harris reported on procedures for tracking lobbyists monthly L2 filings and the status of random candidate audits currently being conducted by audit staff.

Chief Technology Officer

Michael Smith reported on the status of the ORCA project, noting that the new software will be available in December 2003.

Adjournment

Commissioner Connelly adjourned the meeting at 2:15 p.m. The next meeting is scheduled for Tuesday, April 22, 2003.

Approved by the Commission 5/27/03